IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 32411 of 2006(H)

PETITIONER:

JOHN SAMUEL, S/O.P.M. SAMUEL,
MOONNU MOOLAYIL HOUSE, ULANADU, KULANADA,
KOZHENCHERRY.

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:

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1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, PATHANAMTHITTA.

2. THE THUMPAMON THAZHAM SERVICE CO-OPERATIVE BANK LTD.NO.134, OFFICE OF THE THUMPAMON THAZHAM SERVICE CO-OPERATIVE BANK LTD. NO.134, THUMPAMON THAZHAM, PATHANAMTHITTA, REPRESENTED BY ITS SECRETARY.

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 32411 of 2006 (H)

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Dated this the 6th day of December, 2006

J U D G M E N T

Through judgment in W.P.(C) No.7784/2006, dated 21/03/2006, the writ petitioner was allowed repayment of the loan to the second respondent Co-operative Bank in equal monthly instalments of Rs.2,000/- each, commencing from 15/07/2006. There was a stipulation that, in the event of default, the writ petitioner would forfeit the benefits given to him for repayment of the loan under instalments.

2. The mother of the writ petitioner was admitted in a hospital due to cardiac arrest, as could be seen from the medical documents produced before me. Therefore, he had defaulted the payment of instalments for the months of September and October, 2006. However, he has promptly remitted those arrears in the month of November, 2006. Thus, upto 15/11/2006, the entire amount due to the second respondent bank has been remitted. This writ petition is filed, fearing that because of the forfeiture clause, incorporated in the

judgment in W.P.(C) No.7784/2006, the bank may proceed against the writ petitioner for realisation of the entire amount, in lump.

3. After hearing the counsel for the writ petitioner, considering the medical documents placed before me and the circumstances explained, together with the submissions of the learned Senior Government Pleader, I direct the second respondent to continue to give all the benefits that had been bestowed on the writ petitioner, as per the judgment dated 21/03/2006 of this Court. The writ petitioner shall also continue to remit the amount, in equal monthly instalments, of Rs.2,000/- each, till the entire amount due to the second respondent is remitted, without the forfeiture being operated.

The writ petition is closed as above.

(J.M.JAMES)
Judge

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